

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**WOODMEN OF THE WORLD LIFE
INSURANCE SOCIETY,**

Plaintiff,

vs.

DAVID A. LOWERY,

Defendant.

8:16CV73

ORDER TO SHOW CAUSE

This matter is before the Court on the Court's own Motion. Plaintiff filed an Application to Confirm Arbitration Award (Filing No. 1) on February 11, 2016. The Monroe County Sheriff's Office served the Application on Defendant on March 23, 2016 (Filing No. 9). Defendant has not responded to the Application.

Plaintiff asserts that the Court has subject matter jurisdiction to consider its Application under Section 9 of the Federal Arbitration Act ("FAA"), 9 U.S.C. § 9. However, Plaintiff has not alleged a factual basis for this court to exercise subject matter jurisdiction. Section 9 "confers no federal jurisdiction, but instead requires 'an independent jurisdictional basis.'" *CMH Homes, Inc. v. Goodner*, 729 F.3d 832, 835 (8th Cir. 2013) (quoting *Hall St. Assocs., LLC v. Mattel, Inc.*, 552 U.S. 576, 581–82 (2008)). It appears that the arbitration award concerns commissions that were paid to an insurance agent pursuant to a contract that is governed by Nebraska law, and that the amount of the award is only \$2,702.32, plus \$500 for fees and expenses. The total claimed is less than the jurisdictional amount required under 28 U.S.C. § 1332.

Even in the absence of a challenge from any party, courts have an independent obligation to determine whether subject matter jurisdiction exists. *Sac & Fox Tribe of*

the Mississippi in Iowa, Election Bd. v. Bureau of Indian Affairs, 439 F.3d 832, 836 (8th Cir. 2006). Accordingly, the Court orders Plaintiff to show cause why this action should not be dismissed pursuant to Federal Rule of Civil Procedure 12(h)(3).

Accordingly,

IT IS ORDERED that the plaintiffs are hereby directed to show cause, on or before May 6, 2016, why this action should not be dismissed for lack of subject matter jurisdiction.

Dated this 20th day of April, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge